

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY  
MINUTES OF A PUBLIC HEARING**

DATE..... November 17, 2004  
 TIME..... 7:00 P.M.  
 PLACE..... County Office Building  
 20 N. 3<sup>RD</sup> Street  
 Lafayette, IN 47901

**MEMBERS PRESENT**

Mark Hermodson  
 KD Benson  
 Gary Schroeder  
 Bob Bowman  
 Steve Egly  
 Steve Schreckengast  
 Vicki Pearl  
 John Knochel  
 Dave Williams  
 Jeff Kessler  
 Dr. Carl Griffin  
 Kevin Klinker  
 Mike Smith

**MEMBERS ABSENT**

Lynda Phebus  
 Kathy Vernon

**STAFF PRESENT**

Sallie Fahey  
 Margy Deverall  
 John Burns  
 Brian Weber  
 Jay Seeger, Atty.  
 Bianca Bullock

The Area Plan Commission of Tippecanoe County Public Hearing was held on the 17<sup>th</sup> of November 2004, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

Mark Hermodson called the meeting to order.

**I. BRIEFING SESSION**

Sallie Fahey informed the Commission that the following cases need to be continued to the December 15, 2004 Area Plan Commission public hearing: **Z-2208 – PRICE HILL FARMS, INC. (R1 to I3)** so that petitioner may re-advertise; **Z-2216 – WILLIAM FLEISCHHAUER (Chauncey Townhomes PD) (R3W to PDRS)** because Notice to Interested Parties was not mailed ten days prior to hearing; and **Z-2218- REGENCY PROPERTIES, LLC. (R1 to GB)** because of a deficiency in the public hearing notice. She pointed out an error in the agenda regarding S-3593; it should read: “west of CR 675 E.” She also mentioned Transportation Planner Brian Weber will be giving a presentation on Intelligent Transportation Systems under Administrative Matters.

**II. APPROVAL OF MINUTES**

Jeff Kessler moved to approve the minutes of the October 20, 2004 meeting. Carl Griffin seconded and the motion carried by voice vote.

Mike Smith asked if there was a By-Law Committee in place to address the issue of changing a denied petition's request and re-filing.

Sallie Fahey responded that that is one of several items Staff has accrued for the By-Law Committee to discuss.

**III. NEW BUSINESS**

**A. PRIMARY APPROVAL EXTENSION REQUEST**

**1. STONEHENGE SUBDIVISION (S-2378):**

The developer, Stonehenge Development Corp., is requesting a third 2-year extension of the conditional primary approval, originally granted March 20, 1996. Unless extended, the previous extension approval expires March 20, 2005. Ninety-eight (98) of the 145 lots have been recorded. The site is located at the southeast corner of CR 450 N and CR 375 W, in Wabash 34 (S ½) 24-5.

Jeff Kessler moved to hear and approve the above-described request. Kevin Klinker seconded.

Sallie Fahey summarized the staff report with recommendation of approval.

Mike Smith noted that the sketch plan included in the staff report is too small and difficult to read.

The Commission voted by ballot 13 yes – 0 no to approve **STONEHENGE SUBDIVISION (S-2378) PRIMARY APPROVAL EXTENSION REQUEST.**

#### IV. **PUBLIC HEARING**

Jeff Kessler moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County and the Unified Subdivision Ordinance of Tippecanoe County, Indiana, are hereby entered by reference into the public record of each agenda item. Carl Griffin seconded and the motion carried by voice vote.

Jeff Kessler moved to continued **Z-2208 – PRICE HILL FARMS, INC. (R1 to I3), Z-2216 – WILLIAM FLEISCHHAUER (Chauncey Townhomes PD) (R3W to PDRS), and Z-2218 – REGENCY PROPERTIES, LLC. (R1 to GB)** to the December 15, 2004 Area Plan Commission public hearing. Carl Griffin seconded and the motion carried by voice vote.

#### A. **ORDINANCE AMENDMENTS**

##### 1. **UZO AMENDMENT #46 (as amended by the County Commissioners, Lafayette City Council, West Lafayette City Council, and the Town Councils of Battle Ground, Clarks Hill and Dayton):**

An amendment which includes changes to the sections of the Ordinance regarding boarding, breeding and training horses; and also includes changes to the Use Table regarding the manufacturing of prepared feed and feed ingredients for animals and fowls, except dogs and cats.

Jeff Kessler moved to hear and approve **UZO AMENDMENT #46 as amended.** Carl Griffin seconded the motion.

Sallie Fahey summarized the amended Unified Zoning Ordinance Amendment #46. She explained that if the Area Plan Commission passes Amendment #46, as amended, it would go into effect as soon as the individual jurisdictions receive their Certification letter.

Mike Smith asked if the jurisdictions are allowed to amend ordinances brought before them.

Sallie Fahey pointed out that jurisdictions cannot amend rezoning or map ordinances, but can amend Unified Zoning Ordinance text amendments.

The Commission voted by ballot 13 yes – 0 no to approve **UZO AMENDMENT #46 (as amended by the County Commissioners, Lafayette City Council, West Lafayette City Council, and the Town Councils of Battle Ground, Clarks Hill and Dayton).**

#### B. **REZONING ACTIVITIES**

##### 1. **Z-2217– CHRIS ALLEN TABOR (NB TO NBU):**

Petitioner is requesting rezoning of three lots located at 6943 Monroe Street in the unincorporated town of Stockwell, Lauramie 8 (NE) 21-3.

Jeff Kessler moved to hear and approve the above-described request. Carl Griffin seconded.

Margy Deverall presented slides of the zoning map, site plan and aerial photos. She summarized the staff report with recommendation of approval.

Chris Tabor, 4207 E 900 S, Lafayette, IN, concurred with the staff report and requested approval.

The Commission voted by ballot 13 yes – 0 no to approve **Z-2217 – CHRIS ALLEN TABOR (NB to NBU).**

**C. SUBDIVISIONS**

**1. S-3593 – BARRINGTON WOODS (Major-Preliminary)**

Petitioner is seeking primary approval for a 245-lot single-family subdivision (plus 6 outlots) on 116.28 acres, located on the north side of CR 50 S and east of CR 675 E, in Perry 29 (N ½) 23-3.

Jeff Kessler moved to hear and vote on the above-described request. Carl Griffin seconded.

Margy Deverall presented slides of the zoning map, preliminary plat and 2 aerial photos. She summarized the staff report with recommendation of approval contingent on the following:

**Construction Plans** – The following items shall be part of the Construction Plans application and approval:

1. Street names shall be accepted by the Post Office, 911, and APC staff.
2. Any off-site easements necessary to bring utilities to the subdivision shall be recorded.
3. The Lafayette City Engineer shall approve the sanitary sewer and water plans.
4. The Sheffield Township Fire Department shall approve the fire hydrants. The City, in cooperation with the Fire Department, shall approve plans for the actual placement of the hydrants.
5. An Erosion and Sediment Control Plan meeting the requirements of 327 I.A.C. 15-5 shall be approved by the Tippecanoe County Soil and Water Conservation District and meeting the requirements of the County Drainage Board as required by the Tippecanoe County Ordinance #93-18-CM.
6. The County Drainage Board shall approve the drainage plans.
7. An on-site utility coordinating sheet shall be approved and signed-off by the non-government utility companies. If any of these utilities are being extended from an off-site location, this extension shall be made a part of the utility coordinating sheet.
8. On the grading plan, the lowest floor elevation for any building pad within 100 ft. of the FP district (if any) shall meet the flood protection grade.

**Final Plat** – The following items shall be part of the Secondary Application and Final Plat approval:

9. Except for the approved entrance(s), a “No Vehicular Access” statement shall be platted along the CR 50 S and McCarty Lane extension right-of-way lines.
10. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
11. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
12. All required building setbacks shall be platted.
13. Regulatory Flood Elevation and Boundary for the Berlowitz Ditch Flood Plain (if any) shall be shown. It shall also be described and certified as specified in the Unified Zoning Ordinance, Section 2-26-17.
14. The street addresses and County Auditor's Key Number shall be shown.

**Subdivision Covenants** – The following items shall be part of the subdivision covenants:

15. The “No Vehicular Access” restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.
16. The purpose, ownership and maintenance of the outlots shall be specified.

Joseph T. Bumbleburg, PO Box 1535, Lafayette, IN, concurred with the staff report and requested bonding and approval.

Norm Williams, 6407 Whippoorwill Dr, Lafayette, IN, expressed concerns regarding traffic and drainage. He believes there should be road infrastructure for the subdivision and the McCarty Lane extension in place prior to construction.

Eric Miller, 40 Oriole Court, Lafayette, IN, said he feels the proposed lots are too small and believes the properties adjacent to his will lower his property value. He said the Commission needs to protect established subdivisions. He also stated concerns regarding the proposed expansion of McCarty Lane.

Kristen Sherman-Haynes, 60 Oriole Court, Lafayette, IN, expressed more concerns regarding property values.

She said she feels the density is too high and there are safety concerns regarding State Road 26.

Mark Hermodson said the common threads among the concerns are: property values, drainage issues, transportation plans and lots sizes. He said the expansion of State Road 26 is a priority in the community and is in the traffic plan. He explained the requirements regarding drainage and that the Drainage Board takes care of such issues. He mentioned that the Unified Zoning Ordinance requires R1 zoning to have a minimum lot size of 10,000 square feet. He said that this proposed subdivision, which is zoned R1B, could have lots as small as 6,000 square feet, but the average lot size is more like R1 standards. He said there is a 25-year transportation plan available to the public in the Area Plan Commission office. He also stated that the Plan Commission does not have discretion when granting primary approval for a subdivision, but is only checking to see that it meets the standards of the Ordinance.

Jay Seeger concurred. He explained that density and volume of houses is dictated by the zoning.

Kristen Sherman-Haynes argued that when this land was rezoned in 1999, she did not have a personal interest in it and further reiterated that she did not want this subdivision in her backyard.

KD Benson pointed out to Ms. Sherman-Haynes that when she bought the house, she could have known the land around it was zoned R1B and a density of 6,000 square feet lots.

Eric Miller said that his basement has been flooded three times in the past year.

KD Benson recommended Mr. Miller talk to the County Surveyor regarding drainage issues.

Mike Smith sympathized with Mr. Miller and recognized the current drainage problem. He said he does not agree with passing the responsibility to the Drainage Board but explained that the Commission cannot do anything regarding drainage.

Eric Miller asked how established subdivisions could be protected in the future.

Mike Smith said the only way to protect established subdivisions is to resist rezoning to the R1 classification, but said that even with R1 zoning, the minimum lot size is 10,000 square feet.

Eric Miller asked how the minimum lot size for R1 zoning can be changed.

KD Benson said one way to protect your own property is to buy the surrounding land.

Steve Schreckengast said that the new subdivision should not have a negative impact on current property values. He also suggested attending the drainage board meeting.

The Commission voted by ballot 13 yes – 0 no to permit bonding for all public improvements.  
The Commission voted by ballot 13 yes – 0 no to grant conditional primary approval to **S-3593 –**  
**BARRINGTON WOODS (Major-Preliminary).**

## **V. CITIZEN COMMENT AND GRIEVANCES**

Mike Smith asked if a realtor has a requirement to disclose to a potential buyer about drainage problems with the property or the zoning of the surrounding areas and possible future developments.

Sallie Fahey said she does not believe the realtor is required to disclose information regarding the surrounding property.

Mike Smith said that when buying a house: *caveat emptor*.

Sallie Fahey said that older subdivisions at the edge of town are on larger lots because they are on septic systems. She explained that now that City sanitary sewer has spread farther out into the county, the lots can be smaller. She said she understands that the residents of the older subdivisions feel encroached

upon, but staff is working hard to minimize sprawl. She said that if this development were built on ¾ acre lots that could be considered sprawl.

KD Benson agreed that there needs to be communication in place regarding future road construction projects among realtors, staff, homebuyers, and the public.

Sallie Fahey said the next transportation plan is for 2030, and will be finished by June 2006. She said that the long-range maps could be given to the media and made available on the website.

Kevin Klinker said there are people who are very unhappy that the Commission passed something we have no control over. He asked if a disclaimer could be included in the Notice to Interested Parties stating that the Area Plan Commission votes only on whether or not the subdivision meets the minimum requirements of the Subdivision Ordinance and has no discretionary power. He also wondered why subdivisions were heard at public hearing what give neighbors false hope that what they say will make a difference.

Sallie Fahey said that the current form is regulated by the Area Plan Commission by-laws. She said that Ordinance Committee could revise the forms and include more information. She also mentioned there have been prior meetings where residents in the area have provided critical information that staff would have no way of being able to find out. She recalls old mutual farm drains that had never been recorded which would affect the neighboring farm if developed. There have been times over the years where we have obtained information in the public hearing format that we wouldn't have known otherwise.

Steve Schreckengast said that most homes in new R1 subdivisions are quickly approaching the \$200,000 price threshold and believes there should be no concern regarding lowering property values. He said that since these new developments are on the city sewer system, he suggested the residents of Country Aire Estates be concerned with their aging septic systems.

Gene Ave, 1393 Clearvista Court, Lafayette, IN, said he would like to know the status of a performance bond submitted to the Area Plan Commission in 2001 in the amount of \$450,000 to ensure that Cross Creek Lakes would be completed. He said there has not been any progress in 2 ½ years, the developer went into bankruptcy, and the roads and lakes are unfinished. He said he has petitioned the Area Plan Commission and would like to know what can be done regarding the unfinished bond.

Jay Seeger said this was originally a development in the County which was then taken over the by City. He explained that the developer went into bankruptcy and a receiver was appointed for the performance bond. He said the outstanding bond addresses the drainage and landscaping but doesn't completely address the roads. He said that he has attempted to work with the receiver and the City Engineer in terms of getting a resolution and submitting a claim to the bonding company, which is still pending. He apologized for putting the issue on hold and not giving it the attention it deserves. He said that all of the parties involved are trying to move forward.

Steve Schreckengast asked who takes over development and repair of private streets within a community.

Jay Seeger responded that one of the issues in this matter is who takes over the roads. He said the upkeep does not fall onto the county, but on the receiver.

Mike Smith asked the name of the development.

Jay Seeger responded Cross Creek Lakes.

Gene Ave said the association would like some assurance that this will not happen again. He expressed concerns regarding safety issues with the unfinished roads and inaccessible fire hydrants.

Jay Seeger said he will arrange a meeting with the association, the Lafayette City Engineer, and the receiver's contractor.

Ed Cook, 1377 Clearvista Court, Lafayette, IN, said he does not believe there is a developer or a receiver. He said there are recurring, unresolved problems, such as mowing the drainage ditch and fixing the roads.

Jay Seeger said that the bond would not take care of mowing the ditch, that is the responsibility of the county.

Ed Cook asked how quickly the issue could be resolved. He said he would like to set up a meeting. He asked what is the consequence for a developer posting a bond and then defaulting. He asked if there was someone, other than the homeowners, tracking the project.

Jay Seeger said the Area Plan Commission requests the bond as a medium to ensure completion of the improvements. He said he would set up a meeting to discuss the improvements tomorrow.

Mike Smith said he would like to attend the meeting, also.

#### **VI. ADMINISTRATIVE MATTERS**

Sallie Fahey introduced Brian Weber, Transportation Planner.

*Brian Weber gave a presentation regarding Intelligent Transportation Systems.*

#### **VII. APPROVAL OF THE DECEMBER EXECUTIVE COMMITTEE AGENDA**

Jeff Kessler moved that the following subdivision petitions be placed on the December 1, 2004 Executive Committee Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

**S-3600 – ROBERTS LANDING SUBDIVISION (Minor-Sketch)**

**S-3601 – HARRINGTON SUBDIVISION (Minor-Sketch)**

Carl Griffin seconded and the motion carried by voice vote.

Jeff Kessler moved to place the following new business on the December 1, 2004 Executive Committee Agenda:

**RESOLUTION PD 04-29: RENAISSANCE PLACE PLANNED DEVELOPMENT (Z-2143)**

Carl Griffin seconded and the motion carried by voice vote.

Jeff Kessler moved to place the following Transportation Resolution on the December 1, 2004 Executive Committee Agenda:

**RESOLUTION T-04-7 – AMENDMENT TO THE FY 05 TIP**

Carl Griffin seconded and the motion carried by voice vote.

#### **VIII. APPROVAL OF THE NOVEMBER/DECEMBER AREA BOARD OF ZONING APPEALS AGENDA**

Jeff Kessler moved to place the following petitions on the December 1, 2004 Area Board of Zoning Appeals Public Agenda:

**BZA-1669 – SHAWN & STEPHANIE FOSTER**

**BZA-1673 – JEFFREY R. & MARY NAGY**

**BZA-1677 – RAISOR POWER SPORTS REAL ESTATE I LLC**

**BZA-1678 – JASON RIGGS W/DPH.INC REPRESENTING NEXTEL COMMUNICATIONS**

Carl Griffin seconded and the motion carried by voice vote.

Jeff Kessler moved that the following BZA petitions for special exception do not substantially adversely affect the Comprehensive Plan:

**BZA-1678**

Carl Griffin seconded and the motion carried by voice vote.

## **IX. DIRECTOR'S REPORT**

Sallie Fahey highlighted the written director's report. She pointed out that the Area Plan Commission staff will be working on the All-County Hazard Mitigation Plan. She explained that she would like to use a portion of the 2004 unused salary budget on consultant fees. She requested that the Commission authorize the Executive Committee to make the decision regarding transferring 2004 salary money to the County Commissioners for the purpose of paying a consultant to assist staff with the All-Hazard Mitigation Plan.

John Knochel moved to authorize the Executive Committee to transfer a portion of 2004 Area Plan salary budget to the County Commissioners for the purpose of hiring a consultant for the All-Hazard Mitigation Plan. KD Benson seconded.

KD Benson noted that the request was out of the ordinary.

Mike Smith asked if there was any concern regarding the funds.

KD Benson explained this would just earmark funds that would have gone back into the general fund.

Jeff Kessler said that if the money was already in the Area Plan's budget, he does not see a problem with it.

Sallie Fahey said that by the time the Executive Committee meets, staff will have final proposals and dollar amounts from the consultants. She said she sees this as being able to use staff money for a staff person that was not in place in 2004. She said that the County Commissioners would manage the money and the payment to the consultants.

Jeff Kessler suggested staff consult the county attorney.

Sallie Fahey presented the possibility of putting the money back in the general fund and then re-appropriate it. She said the benefit, by taking 2004 money that was already appropriated, is the transferred money can be encumbered because of the signed contract with the consultant. She explained that the motion will go to the Executive Committee for the final recommendation, then to the County Commissioners meeting for contract approval, and finally to the County Council for the transfer of the money.

KD Benson said the County Commissioners cannot sign a contract without appropriated money. She said the money would need to be transferred to the general budget first.

Sallie Fahey said that the request will go to the County Council first and then to the County Commissioners.

Mark Hermodson said that all Plan Commission members are ex-officio members of the Executive Committee and anyone who is interested may attend the Committee meeting December 1, 2004.

The motion carried by voice vote.

Sallie Fahey also mentioned the unprecedented working relationship developing between Area Plan Staff and the Economic Development Corporation's interim director, Cinda Kelley. She said that the EDC is sharing information regarding which properties they are marketing for business development and industry. She said that staff has been providing more detailed zoning information for EDC clients that come to look at property. She said that the Area Plan Commission has a role to play in economic development in the community and believes this is a great start.

Jeff Kessler concurred.

Kevin Klinker added this will benefit the Plan Commission by knowing what direction an area is headed prior to a rezone.

Sallie Fahey also mentioned the collaboration between Leadership Lafayette and Tippecanoe County. She said the pilot program, which runs from January to April, is currently only offered to elected and appointed county officials. She said the program looks very interesting and she has applied.

**X. ADJOURNMENT**


Carl Griffin moved for adjournment. Kevin Klinker seconded and the motion carried by voice vote.  
The meeting was adjourned at 8:30 P.M.

Respectfully submitted,



Bianca Bullock  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director